



The California Managed Risk Medical Insurance Board
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**NOTICE OF PROPOSED RULEMAKING
R-1-07**

**TITLE 10. CALIFORNIA CODE OF REGULATIONS
AMEND SECTION 2699.6611
REGARDING
HEALTHY FAMILIES PROGRAM
DELETION OF HFP TO MEDI-CAL BRIDGE**

NATURE OF PROCEEDING

NOTICE IS HEREBY GIVEN that the Managed Risk Medical Insurance Board (MRMIB) is proposing to take the action described in the Informative Digest.

A public hearing regarding this proposal will be held on April 21, 2008, at 10:00 a.m. at 1000 G Street, Suite 450, Sacramento, CA 95814.

Following the public hearing MRMIB may thereafter adopt the proposal substantially as described below or may modify the proposals if the modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written comments related to this proposal, or who provide oral testimony if a public hearing is held, or who have requested notification of any changes to the proposal.

Notice is also given that any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulation action to the

Managed Risk Medical Insurance Board
Attn: JoAnne French
1000 G Street, Suite 450
Sacramento, CA 95814

Comments may also be submitted by facsimile (FAX) at (916) 327-6580 or by e-mail to jfrench@mrmib.ca.gov. Comments must be submitted prior to 5:00 p.m. on April 21, 2008.

AUTHORITY AND REFERENCE

Authority: Insurance Code section 12693.21 and 12693.755, Insurance Code and References: 12693.21, 12693.45, 12693.74, 12693.77, 12693.755, 12693.98, and 12693.981 of the Government Code, the Managed Risk Medical Insurance Board is considering changes to Title 10, Chapter 5.8, of the California Code of Regulations as follows: Amends section 2699.6611.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The MRMIB operates the Healthy Families Program (HFP), which was established in 1997 pursuant to Chapter 623, Statutes of 1997 (AB1126) to provide health insurance for low-income children. The program is targeted to serve children whose family's income, although low, is too high to qualify for the Title XIX Medicaid Program, called Medi-Cal in California.

AB 430 (Chapter 171, Statutes of 2001) originally established the Healthy Families-to-Medi-Cal Bridge benefits (Bridge). The Bridge was approved in 2002 by the Centers for Medicare and Medicaid Services (CMS) as a component of the parental waiver under Title XXI of the Social Security Act (the Medicaid statute). The waiver expired on January 24, 2007. CMS offered to extend the parental waiver through June 30, 2007, but conditioned the extension on a retroactive change of the federal/state cost from 65/35 to 50/50 to 2002 when the Bridge was first implemented. Under Title XIX of the Social Security Act, the state has the authority to provide presumptive eligibility (PE) to children who appear to be eligible for full-scope Medi-Cal benefits. Under PE, full-scope Medi-Cal fee-for-service benefits are provided to children pending an eligibility determination. The federal financial participation under the program is 50/50.

AB 203 (Chapter 188, Statutes of 2007) is the state's response to CMS' condition. Instead of agreeing to the condition, the bill directs MRMIB to eliminate the Healthy Families-to-Medi-Cal bridge benefits when the director of the Department of Health Care Services (DHCS) declares that PE for no-cost Medi-Cal has been implemented. On November 30, 2007, the director of DHCS released the directive that the HFP to Medi-Cal Presumptive Eligibility program was implemented, commencing September 1, 2007. Implementing AB 203 requires changes to the current HFP regulations to reflect that subscriber children will be disenrolled at the end of the anniversary month in which they are determined no longer eligible for HFP and Healthy Families-to-Medi-Cal bridge benefits will not be provided.

There are no comparable provisions of federal law related to this proposal.

LOCAL MANDATE

This proposal does not impose a mandate on local agencies or school districts.

FISCAL IMPACT ESTIMATES

This proposal does not impose a mandate on local agencies or school districts for which reimbursement would be required pursuant to Part 7 (commencing with Section 17500 of Division 4 of the Government Code). This proposal does not impose other

nondiscretionary cost or savings on local agencies. This proposal does not result in any cost or savings in federal funding to the state.

COSTS OR SAVINGS TO STATE AGENCIES

Fiscal Effect on State Government:

AB 203 amended section 12693.981 of the Insurance Code to discontinue the Healthy Families Program-to-Medi-Cal bridge benefit and, instead, place children who are no longer eligible for HFP, and appear eligible for Medi-Cal, in a presumptive eligibility coverage program in lieu of bridge benefits.

California has a presumptive eligibility program infrastructure currently in place for Medi-Cal which provides immediate benefits to uninsured children who appear eligible for Medi-Cal while the full eligibility determination is being processed. This presumptive eligibility is approved by the federal government at 50%-50% fund sharing.

Since the Medi-Cal program already has authority to grant presumptive eligibility and current processes are already in place to transfer case information to the 58 counties for final determination, the administrative costs for this option would be minimal since administrative processes were already established.

The cost for the bridge program would have been \$4.8 million (\$2.4 million GF @ the reduced 50% Medicaid federal participation rate) based on updated 2007 May Revision caseload projections for the 2007 State Budget. The cost included in the 2007 Budget to implement this proposal is \$4.4 million (\$2.2 million GF @ the 50% Medicaid federal participation rate); a \$200,000 savings in annual GF cost.

Since the previous base budget for the Bridge waiver would have been \$4.8 million with a GF cost of \$1.7 million (reflecting the previous 65% federal participation rate), the net increase to the base budget is \$500,000 in GF costs (\$2.2 million in the 2007 Budget, less the existing \$1.7 million base budget).

This presumptive eligibility cost is already included in the 2007 State Budget.

Fiscal Effect On Federal Funding Of State Programs:

Under the Title XXI State Children's Health Insurance Program (S-CHIP), the Federal government covers 65% of all eligible program costs for the Healthy Families Program. The regulations will result in reduced federal fund expenditures of \$900,000.

BUSINESS IMPACT/SMALL BUSINESS

MRMIB has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The proposal does not affect small businesses as defined by section 11342.610. The determination that the proposal would not affect small business is based upon the fact that the proposal applies only to the procedures followed by MRMIB should a

determination of insufficient funding be made by the Board. It has no impact at all on any entity that is not a state agency as defined in section 11000 of the California Government Code as the regulations only establish procedures.

ASSESSMENT REGARDING EFFECT ON JOBS/BUSINESSES

The MRMIB has determined that this regulatory proposal will not have any impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California.

COST IMPACTS ON REPRESENTATIVE PERSON OR BUSINESS

The MRMIB is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

EFFECT ON HOUSING COSTS: None

ALTERNATIVES

The MRMIB must determine that no reasonable alternative considered by the agency, or that has been otherwise identified and brought to the agency's attention, would be more effective in carrying out the purpose for which the adoption of this regulation is proposed, or would be as effective as and less burdensome to affected private persons than the proposed action.

CONTACT PERSONS

Inquires concerning the proposed adoption of this regulation and written comments may be directed to:

JoAnne French
Managed Risk Medical Insurance Board
1000 G Street, Suite 450
Sacramento, CA 95814
(916) 327-7978

or

Randi Turner
Managed Risk Medical Insurance Board
1000 G Street, Suite 450
Sacramento, CA 95814
(916) 327-8243

INITIAL STATEMENT OF REASONS

The MRMIB has prepared an initial statement of reasons for the proposed action and has available all the information upon which the proposal is based.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations and of the initial statement of reasons, and all of the information upon which this proposal is based, may be obtained upon request from the Managed Risk Medical Insurance Board at 1000 G Street, Suite 450, Sacramento, CA 95814. These documents may also be viewed and downloaded from the MRMIB website at www.mrmib.ca.gov.

AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All the information upon which the proposed regulations are based is contained in the rulemaking file which is available for public inspection by contacting the person named above.

You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named above.

WEBSITE ACCESS

Materials regarding this proposal can be found at www.mrmib.ca.gov.

**STATE OF CALIFORNIA
MANAGED RISK MEDICAL INSURANCE BOARD
1000 G STREET, SUITE 450
SACAMENTO, CA 95814**

**TITLE 10, CALIFORNIA CODE OF REGULATIONS
AMEND 2699.6611
REGARDING DELETION OF HEALTHY FAMILIES PROGRAM
TO MEDI-CAL BRIDGE**

INITIAL STATEMENT OF REASONS

INTRODUCTION

In 1997, AB 1126 (Chapter 623, Statutes of 1997) was enacted allowing California the option of both expanding its Medi-Cal program and establishing a new stand-alone children's health insurance program, the Healthy Families Program (HFP), pursuant to Title XXI of the Social Security Act (the State Children's Health Insurance Program, or SCHIP). The Department of Health Care Services (DHCS) administers the Medi-Cal expansion. The Managed Risk Medical Insurance Board (MRMIB) administers the HFP.

The basic structure of the HFP is set out in the California Code of Regulations, Title 10, Chapter 5.8. The HFP provides health insurance to low-income children whose family incomes are at or below 250% of the federal poverty level after allowable deductions, but are too high to be eligible for no-cost Medi-Cal benefits.

AB 430 (Chapter 171, Statutes of 2001) established the HFP-to-Medi-Cal benefits bridge. When HFP determines that a child is no longer eligible for HFP but potentially qualifies for no-cost Medi-Cal, HFP provides the child an additional two months of HFP coverage to allow time for Medi-Cal to make an eligibility determination. These two additional months of coverage is referred to as a "bridge" between HFP and no-cost Medi-Cal.

In 2002, the Centers for Medicare and Medicaid Services (CMS) approved the bridge as a component of the parental waiver under Title XXI. The parental waiver expired on January 24, 2007. CMS offered to extend the parental waiver through June 30, 2007, conditioned upon the change in federal/state financial participation from 65/35 to 50/50 retroactive to the date the bridge was implemented. Under Title XIX of the Social Security Act, the state has authority to provide presumptive eligibility (PE) to children who appear to be eligible for no-cost Medi-Cal. Under PE, Medi-Cal fee-for-service benefits are provided to

children pending an eligibility determination. The federal/state financial participation for Medi-Cal is 50/50.

Assembly Bill 203 (Chapter 188, Statutes of 2007), by the deemed emergency regulation process, directs the HFP to discontinue bridge benefits to children enrolled in HFP when it is determined during the annual eligibility review process that the child's family income is below HFP eligibility requirements and appears to be eligible for no-cost Medi-Cal. Instead, under Welfare and Institutions Code section 14011.65(b), benefits will be provided by Medi-Cal through PE until Medi-Cal makes an eligibility determination. On August 30, 2007, the director of the DHCS released a directive that PE for no-cost Medical be implemented. This change in regulations was approved as emergency regulations on November 30, 2007.

SPECIFIC PURPOSE OF EACH SECTION – GOVERNMENT CODE

11346.2(B)(1)

California Code of Regulations section 2699.6611 describes the occurrences under which a subscriber shall be disenrolled from participation in HFP and when the disenrollment shall occur.

The purpose of the proposed regulations is to conform with the requirements of AB 203, Statutes of 2007, by deleting the HFP benefits provided by the Healthy Families Program-to-Medi-Cal bridge benefits. Instead, the benefits as a result of presumptive eligibility will be provided by Medi-Cal.

RATIONALE FOR THE NECESSITY OF THE CHANGES

Currently, subsection 2699.6611(e) defines disenrollment at the end of the month of the subscriber's anniversary date as being effective pursuant to subsection 2699.6611(a)(7). Adding "(a)(1) and" so that the subsection reads "pursuant to (a)(1) and (a)(7)" provides disenrollment to occur at the end of the subscriber's anniversary month once they are determined to no longer be eligible for the HFP. This amendment is necessary as the reference to "(a)(1)" will be deleted with subsection 2699.6611(f).

Deleting subsection 2699.6611(f) eliminates the HFP's authority to continue coverage, or bridge benefits, for two additional months if the subscriber were determined to be ineligible for the HFP, but potentially eligible for no-cost Medi-Cal.

OTHER REQUIRED SHOWINGS – GOVERNMENT CODE 11346.2(B)(2)-(4)

Studies, Reports, or Documents Relied Upon - Gov. Code 11346.2(b)(2):
None

Reasonable Alternatives Considered – Gov. Code 11346.2(b)(3)(A): None.
This regulation change was directed by the Legislature through AB 203, Statutes of 2007.

**CALIFORNIA CODE OF REGULATIONS
TITLE 10: INVESTMENT
CHAPTER 5.8 MANAGED RISK MEDICAL INSURANCE BOARD
HEALTHY FAMILIES PROGRAM**

ARTICLE 2. ELIGIBILITY, APPLICATION, AND ENROLLMENT

Section 2699.6611 is amended to read:

2699.6611. Disenrollment.

- (a) A subscriber shall be disenrolled from participation in the program if any of the following occur:
 - (1) The subscriber is found by the program to no longer be eligible during the annual eligibility review period.
 - (2) The subscriber child attains the age of 19. A subscriber child who attains the age of 19 will not be disenrolled from the program if he or she applies to the program pursuant to Section 2699.6600 and is determined to be eligible for the program as a subscriber parent pursuant to Section 2699.6607 before his or her effective date of disenrollment.
 - (3) A subscriber is determined by the program to not be a citizen, non-citizen national, or a qualified alien eligible to participate in the program or fails to provide documentation required pursuant to Subsection 2699.6600(c)(1)(T) within the required time period.
 - (4) The applicant fails to pay the required family contribution for the subscriber for two (2) consecutive calendar months.
 - (5) The applicant so requests in writing on behalf of himself or herself or on behalf of another subscriber for whom he or she applied.
 - (6) The applicant has intentionally made false declarations in order to establish program eligibility for any person.
 - (7) The applicant fails to provide the necessary information for the subscriber to be requalified.
 - (8) Death of a subscriber.

- (9) The child through whom the subscriber parent became eligible as a child-linked adult as defined in Section 2699.6500 is no longer enrolled in no-cost Medi-Cal and has not enrolled in the program.
 - (10) The child through whom the subscriber parent became eligible as a child-linked adult as defined in Section 2699.6500 did not enroll in no-cost Medi-Cal, or the program, and the subscriber parent has no other children enrolled in the program or no-cost Medi-Cal.
 - (11) The child through whom the subscriber parent became eligible as a child-linked adult as defined in Section 2699.6500 attains the age of 19 and the subscriber parent has no other children enrolled in the program or no cost Medi-Cal.
 - (12) The child through whom the subscriber parent became eligible as a child-linked adult as defined in Section 2699.6500 no longer lives with the subscriber parent and another adult with whom the child now lives applies and is found eligible for enrollment as a child-linked adult through the same child.
 - (13) The child through whom the subscriber parent became eligible as a child-linked adult as defined in Section 2699.6500 is no longer enrolled in the program, and the subscriber parent has no other children enrolled in the program or no-cost Medi-Cal.
- (b) Prior to disenrolling a subscriber pursuant to (a)(4), the program shall provide written notification to the applicant no less than thirty (30) days prior to disenrollment. Such notice shall clearly indicate all of the following:
- (1) The disenrollment will not occur if payment in full is made as required.
 - (2) If disenrollment for non-payment occurs, coverage will be terminated at the end of the second consecutive month for which the family contribution was not paid.
- (c) When a subscriber is disenrolled pursuant to (a) above, the

program shall notify the applicant of the disenrollment. The notice shall be in writing and include the following information:

- (1) The reason for the disenrollment.
 - (2) The effective date of disenrollment.
 - (3) The final day of coverage provided through the program.
 - (4) An explanation of the appeals process including the right to request continued enrollment pursuant to Section 2699.6612.
- (d) Disenrollment pursuant to (a)(4) shall be effective as of the end of the second consecutive calendar month for which the required monthly contributions were not paid in full.
- (e) Disenrollment pursuant to (a)(1) and (a)(7) shall be effective at the end of the month of the subscriber's anniversary date.
- ~~(f) Disenrollment pursuant to (a)(1) shall be effective two (2) months after the end of the month of the subscriber's anniversary date if the subscriber is no longer eligible for the program because his or her household income is below the program guidelines. Otherwise, disenrollment pursuant to (a)(1) shall be effective at the end of the month of the subscriber's anniversary date.~~
- ~~(g)~~(f) Disenrollment pursuant to (a)(3) shall be effective at the end of the calendar month in which the conclusion of the two-month period falls pursuant to Subsection 2699.6600(c)(1)(T).
- ~~(h)~~(g) Disenrollment pursuant to (a)(5) shall be effective at the end of the month in which the applicant's request was received. The applicant will be notified of the amount of family contribution due to the program for coverage through the subscriber's effective date of disenrollment.
- ~~(i)~~(h) Disenrollment pursuant to (a)(6) shall be effective at the end of the month in which the determination was made.
- ~~(j)~~(i) Disenrollment pursuant to (a)(2) and (a)(11) shall be effective on the last day of the month the subscriber child or the child through whom the subscriber parent became eligible as a child-linked adult attains the age of 19.

- ~~(k)~~(j) Disenrollment pursuant to (a)(8) shall be effective at the end of the month in which death occurred.
- ~~(j)~~(k) Disenrollment pursuant to (a)(9) shall be effective at the end of the month following the program's notification of the subscriber child's disenrollment from no-cost Medi-Cal.
- ~~(m)~~(l) Disenrollment pursuant to (a)(10) shall be effective at the end of the month following the second month from the date in which the application was received.
- ~~(n)~~(m) Disenrollment pursuant to (a)(12) shall be effective at the end of the month following the program's determination that the subscriber child has departed from the subscriber parent's household and is living with another adult who has applied for enrollment and is eligible as a child-linked adult through that same child.
- ~~(o)~~(n) Disenrollment pursuant to (a)(13) shall be effective at the end of the month following the program's determination that the adult is no longer child linked.

NOTE: Authority cited: Sections 12693.21 and 12693.755, Insurance Code.
Reference: Sections 12693.21, 12693.45, 12693.74, 12693.77, 12693.755, 12693.98 and 12693.981, Insurance Code.